

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

REMARKS

Claims 23-28 remain in the application. Claims 25-28 are amended.

OBJECTIONS TO THE SPECIFICATION

The specification is objected to as not providing a proper antecedent for various claimed subject matter. MPEP 608.01(o) provides, "While an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims."

The examiner has identified five points in the specification where antecedent basis is in issue. Each will be addressed separately, by noting the examiner's objection, by noting an apparent specific claim and quoting the specific language apparently at issue, by identifying the portion of the specification and drawings that provide an original supporting disclosure of the referenced structure, and by identifying where this amendment adds antecedent nomenclature based on the original supporting disclosure.

1. "drawn portion of the sleeve" -- Claim 23 states,

an attachment element joined to said sleeve and extending from the outer face of the sleeve in a position enabling the sleeve to be selectively varied in peripheral size *by commonly drawing the attachment element and a drawn portion of the sleeve* around a remaining portion of the sleeve;

and further states,

a fastening means extending along the entire surface of said elongated flexible strip, sufficiently engageable with said attachment element *to secure the drawn portion of the sleeve* to any surface portion of the sleeve in drawn position, in a wrapped configuration around a selected body portion.

Subject matter support is found at page 9, line 22, through page 10, line 7. The drawings illustrate the feature at Fig. 6, by showing looped sleeve portion 34 in Fig. 6. At page 10, line 3, the specification says, "the fasteners 26 may then be moved over the circumference of the sleeve

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

surface 30 until the sleeve 32 is tightly compressed against the appendage . . .” and, at page 10, line 6, “Thus, a portion 34 of the sleeve overlaps itself. . . .” Based on these disclosures, the portion 34 constitutes a “drawn portion” that is moved or drawn over the remainder of the sleeve.

Antecedent nomenclature is added to paragraph [0031] (note the paragraphs are numbered only in the printed publication) which appears in the original specification at page 10, line 3, by adding “or drawn” after “moved;” at page 10, line 6, by adding “drawn” before “portion,” and by replacing “itself” with “remainder of the sleeve.” These changes conform the nomenclature to the language of Claim 23.

2. **“the first and second bands connected together to form a continuous strip”** – Claim 28 states:

said first and second compression bands are formed of a common and continuous strip of elastic material having common first and second faces;

Subject matter support is found in Fig. 1, which shows a midway pouch with band portions extending in opposite directions from the pouch, respectively terminating at opposite ends 18, 24. The specification provides a description at page 8, line 9, as follows: “A pocket or pouch element 14 is positioned in the mid portion of the strip 12 midway between the distal ends 18, 24 of the strip 12.” This disclosure shows that the band 12 has two opposite end portions extending from the midway pocket. The two end portions will be referred to as portions of the band or strip 12, in better conformity with the disclosure but without the need to specify the details of any connection.

Antecedent nomenclature is added for “first and second portions of a band,” which corresponds to the portions extending from each side of the pouch in Fig. 1. For example, in Fig. 1 the first portion of the band extends from the central pocket to end 24, while the second portion of the band extends from the central pocket to end 18. Paragraph [0028] (note the paragraphs are numbered only in the printed publication) at page 8, line 9 of the original specification is amended to add, “As shown in Fig. 1, the compression band or strip 12 is connected to the pocket and provides first and second opposite end portions of the band or strip 12 that extend away from two opposite edges of the pocket to respective first and second opposite distal ends 24, 18 of the band.” Claims 25-28 are amended to follow the nomenclature of the amended specification. Claim 28 is amended to cancel the terms, “common and continuous.”

3. **“an additional strip of elastic material forming the pocket”** -- Claim 28 states:

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

an additional sheet of elastic material secured to one of said faces of said common and continuous strip, providing a second wall of the pocket.

Subject matter support is found in the original disclosure at:

Page 8, line 7, "The material of the strip 12 from which the wrap 10 is constructed is preferably of a material which is sufficiently flexible to provide a certain amount of elasticity or pliancy in the direction of elongation." This confirms the elastic quality of the strip 12.

Page 8, line 23, "While any number of materials are suitable for the strip 12 and pouches 14, 16, the most preferred is woven polypropylene fiber. The polypropylene fiber is woven in a manner so as to provide the elasticity referenced above...." This confirms that both the strip 12 and pouch 14, 16 can be formed of identical material, i.e., the pouch or pocket can be formed of an "additional" piece of the same elastic material as the strip 12.

Original Claim 1, line 6: "a sheet of said disposable and reusable material secured to the first side of said strip to form a pocket..." and original Claim 15, line 1, "said layer is made from the same material as said elongated strip...." This confirms both that the same material can be used for pouch and strip; and that a "sheet" of this same material is secured one face of the strip to define the pocket.

These disclosures establish that both the strip 12 and pouches 14, 16 can be formed from the same elastic material, and a sheet of the material can be secured to the first side of the strip 12 to form a pocket.

Antecedent nomenclature is added at paragraph [0029] (note the paragraphs are numbered only in the printed publication) at page 9, line 2 of the original specification: "Thus, an additional sheet of the elastic material can be secured to one of the faces of strip 12 to form the pocket." Claim 28 is amended to conform to this language.

4. **"the first and second compression bands being connected to an opposite edge of the pocket"** – Claim 25 states:

having first and second longitudinally elongated flexible and elastic compression bands that are elastic in the direction of elongation, *wherein each compression band is connected to an opposite edge of said pocket and extends away from the pocket to a respective distal end of each band*

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

Subject matter support is found in Fig. 1, which shows a midway pouch with band portions extending in opposite directions from the pouch, respectively terminating at opposite ends 18, 24. The specification provides a description at page 8, line 9, as follows: "A pocket or pouch element 14 is positioned in the mid portion of the strip 12 midway between the distal ends 18, 24 of the strip 12." The pocket and strip are connected or attached (page 8, line 15) by sewing or other attachment (page 8, lines 17-18) preferably along three edges. The claims will no longer state that the two band portions are attached to opposite edges of the pocket. It is sufficient that the band 12 and pocket are connected or attached to each other. Two opposite end portions of the band will be described as extending from opposite edges of the midway pocket of Fig. 1.

Antecedent nomenclature is added to provide that strip 12 is attached to the pocket. As mentioned above, the specification has been amended at paragraph [0028] (note the paragraphs are numbered only in the printed publication) at page 8, line 11 of the original specification, adding the sentence, "As shown in Fig. 1, the compression band or strip 12 is connected to the pocket and provides first and second opposite end portions of the band or strip 12 that extend away from two opposite edges of the pocket to respective first and second opposite distal ends 24, 18 of the band." Claim 25 is amended to use the nomenclature of the amended specification. Claims 26-28 are amended to conform to the added terminology referring to first and second band portions.

5. "the attachment element at the junction of the first and second end portion of the flexible elastic material" -- Claim 24 states, "said attachment element is joined to said sleeve at the junction of said first and second end portions of the flexible and elastic material . . ."

Subject matter support is found in Figs. 4-6, most clearly where Fig. 6 shows a loop 34 with attachment elements 26 extending from it. The ends of the band 12 inherently must be joined to create the loop structure shown in Fig. 6 with elements 26 extending from it, since page 9, lines 7-8, otherwise explains that in the linear form of the band as shown in Fig. 1, "attachment elements 26 are affixed to the distal end 24 and extend outwardly therefrom." Page 9, line 25 supports a joining or junction by stating, "The distal end 18 may be tack stitched to the material 12" Thus, the specification discloses a version of band 12 in which the two end portions of the band 12 are joined such that attachment elements 26 extend from the junction as shown in Fig. 6.

Antecedent nomenclature is added at paragraph [0031] (note the paragraphs are numbered only in the printed publication) in the original specification at page 10, line 1, after "Fig. 4" by adding the sentence, "Fig. 6 further shows a band 12 formed into a sleeve wherein first and

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

second end portions of the band are joined together such that attachment elements 26 extend from the junction."

Claim 23 also refers to joined first and second end portions of the strip 12 but does not specifically require that the attachment elements extend from a junction. Therefore, the broader Claim 23 also is supported by a sufficient antecedent basis on this issue.

OBJECTIONS TO THE CLAIMS

The claims are rejected under section 112 as containing subject matter not in the written description. This objection has been addressed, above, by providing consistent nomenclature in the specification and claims. The specific objections to the claims are individually addressed, below.

In Claims 23-28, the meaning of "first and second bands" has been clarified, as explained above, to refer to first and second end portions of the band 12, corresponding to the first end portion between the pocket and end 24 and the second end portion between the pocket and end 18 in Fig. 1.

In Claims 23-28, the meaning of "each of the bands connected to an opposite edge of the pocket" has been clarified, as explained above, to refer to the band itself having connection to the pocket, while the first and second band portions are described by reference to their positions extending from two opposite edges of the pocket, as shown in Fig. 1.

In Claims 23-28, the meaning of "first and second bands formed as one continuous strip" has been clarified, as explained above, to refer to the two band end portions being parts of a single band 12.

In Claims 23-28, the meaning of "additional sheet of elastic material" has been clarified, as explained above, to refer to the pocket being formed of a sheet of the same type of elastic material as the band and applied to the band by securing the sheet of pocket material to a face of the band.

Regarding Claim 24, the examiner objects that it is unclear whether the attachment element is on one or both ends of the flexible elastic strip. This objection should be withdrawn in view of applicant's right to claim his invention in terms that applicant regards as being his invention. (37 CFR 1.75) Claim 24 is clear in referring to a sleeve, with ends of the strip joined together to form the sleeve, and with the attachment element joined to the sleeve at the junction of the ends. The objection would require a further, needlessly limiting inclusion of detail.

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

Indicating that the attachment element is joined at the junction of the ends provides a clear statement of the claimed structure.

In Claim 25, the examiner objects that it is not clear how two flexible elastic bands are connected to an opposite edge of the pocket. It has been clarified, above, that as a matter of nomenclature the band 12 has various subsections – at least a first end portion and a second end portion. The exact mode of how these end portions are connected has been replaced by a spatial description of the end portions extending away from opposite edges of the pocket, which allows that the band is a single strip of fabric as indicated in the preferred embodiment.

Further regarding Claim 25, the examiner objects that it is not clear how the two flexible elastic bands are connected together to form on continuous band. This has been clarified, above, in the amended claim 25.

Regarding Claim 26, the examiner objects that it is not clear how the fastening means is on both sides of the flexible elastic bands. This is clearly explained in the specification at page 9, lines 8-13:

The attachment elements 26 may be any type of known device which may readily attach to the surface of the strip 12 when pressed thereon. In preferred form, the attachment elements 26 are a hook and loop type attachment device and are most preferably be a hook-type portion of a Velcro fastener. In this manner, the fastener 26 will readily secure itself to the strip 12 by simple contact therewith.

The example of a “fastening means” that the examiner questions is the surface of the strip 12 that is capable of mating with the attachment device. The strip 12 inherently has two faces; hence each face is a fastening surface. Claim 26 is clear on this point, stating:

said fastening means comprises first and second faces . . . of an elastic material that is sufficiently engageable with said attachment element along the entire surface of the first and second faces to establish an engaged area with the attachment element; and said attachment element comprises hook fasteners adapted to engage said elastic material . . .

In order to ensure a proper antecedent basis, paragraph [0030] (note the paragraphs are numbered only in the printed publication) is amended in the

Appl. No. 09/955,916
Amendment dated June 18, 2004
Reply to Office Action of March 19, 2004

original specification at page 9, line 13, by adding the sentence, "Thus, each face of the strip 12 can be regarded as a fastening means suited to mate with the attachment elements 26."

Regarding Claim 28, the examiner objects that it is not clear how the first and second compression bands are formed of a common continuous strip of elastic material. This has been clarified to refer to first and second band portions that are parts of a band 12. Terms "common" and "continuous" are eliminated from the claim.

Further regarding Claim 28, the examiner objects that it is not clear as to what the additional strip is in reference to. It has been clarified, above, that the pocket can be formed of the same type of material as the strip 12. Reference to an "additional" sheet of material refers to the pocket being formed of a sheet of the same type of elastic material as the band and applied to the band by securing the sheet of pocket material to a face of the band.

In conclusion, the specification and claims have been amended to provide common nomenclature, so that the claims find proper antecedent basis in the specification. All amendments relate to nomenclature and are based upon the original disclosure, particularly in Figs. 1 and 6.

In light of the above, applicant respectfully requests that a timely Notice of Allowance be issued in this application.

Respectfully submitted,



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